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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,232	01/06/2004	James P. Lattari	WD-314J	4777

7590
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260 Bear Hill Road
Waltham, MA 02451-1018

08/17/2007

EXAMINER

MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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08/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/752,232

Applicant(s)

LATTARI, JAMES P.

Examiner

Katherine Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/16/04, 8/12/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/2/07 has been entered. The response included an amendment to claims 1 and 15-17 and cancelled claims 18-20.

Claim Objections

2. Claim 9 is objected to because of the following informalities: there is no claim antecedent for "the terminal links". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7-9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by DuBois (U.S. 1,250,150). DuBois discloses the invention as claimed. DuBois teaches a glove 1 comprising a glove portion made of mesh material, wrist portion also

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made of mesh material, and an elastic element 7 attached to the wrist portion in the form of a single coiled spring at least twice as wide as it is thick, to improve comfort. It is noted that lines 67-71 teach that the glove may include one or more coils of resilient wire. Each coil of the spring extends parallel to the glove portion for the width of the spring and then turns perpendicular to the glove portion for the thickness of the spring. The turn of each coil is rounded and the coiled spring is made from metal wire. The coiled spring is circumferentially disposed around the wrist portion of the glove and is therefore welded at each end so as to form a closed loop. The coils of the spring extend through the terminal links of the wrist portion.

5. Claims 1-4, 7, 12-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by van Marwijk et al (U.S. 5,862,521). van Marwijk discloses the invention as claimed. van Marwijk teaches a glove 1 comprising a glove portion made of mesh material, wrist portion 5 also made of mesh material, and a single elastic element 4 attached to the wrist portion in the form of a metal coiled spring at least twice as wide as it is thick, to improve comfort. Each coil of the spring extends parallel to the glove portion for the width of the spring and then turns perpendicular to the glove portion for the thickness of the spring. The glove includes a forearm portion 2 with a single elastic element 4 (Figure 1) in the form of a metal coiled spring wider than it is thick. One coiled spring is attached to the wrist portion on one end thereof and to the forearm portion on the other end thereof.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois '150. DuBois discloses the invention substantially as claimed. However, DuBois doesn't teach that there are between 9 and 11 coils per inch, with the width of each coil between .5 and 1 inches and the thickness of each coil is between .2 and .3 inches. A review of Applicant's disclosure does not reveal any criticality for the number of coils per inch between 9 and 11. Therefore, it would have been obvious through routine experimentation to provide DuBois' coil spring with between 9 and 11 coils per inch to provide a predetermined level of elasticity while enabling the glove to be stretched over a user's hand and conform to the wrist. With regard to claim 6, the claimed values for the width and thickness of each coil is rejected for the same reasoning as set forth in the rejection of claim 5.

8. Claims 10, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois in view of Cutshall (U.S. 5,231,700). DuBois discloses the invention substantially as claimed. However, DuBois doesn't teach the coiled spring is color coded with different colors to indicate different glove sizes. Cutshall teaches a glove 10 having the wrist portion color-coded to indicate glove size (see claim 2). It would have been obvious to one of ordinary skill in the art to color code the wrist portion

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or coiled spring of DuBois as taught by Cutshall in order to visually identify differently sized gloves. Regarding the recitation of claim 11, "complies with the 21 CFR 175.300", this is considered a product by process limitation. MPEP 2113 states that even though the product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of the product does not depend on its method of production. If the product is the claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the product was made by a different process. The Patent Office is not equipped to manufacture products by the myriad of processes put before it, obtain prior art products and then make physical comparisons.

Response to Arguments

9. Applicant's arguments have been considered. Applicant submitted that DuBois doesn't teach a single coil spring wider than it is thick. There appears to be a difference in how the Examiner is interpreting this particular recitation and how the Applicant intends for the recitation to be interpreted. The Examiner is interpreting the width of the spring to be the entire circumferential extent of the spring as it encircles the wearer's wrist, and the thickness to be that of the single coil wire element. Applicant's drawings illustrate the width as the distance from top to bottom of each individual coil, and the thickness of the coil as the length or extent of the coil at its top rounded end (the portion which is perpendicular to the wearer's wrist). However, the claims do not recite the thickness or width of the coil as it pertains to specific portions of the coil. Thus, when

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interpreted broadly, DuBois and van Marwijk both teach a single coil spring wider that is shown as being at least twice as wide as it is thick.

Conclusion

10. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Kmm

August 15, 2007

A handwritten signature in black ink, appearing to read "K Moran", with a stylized, cursive script.

Katherine Moran

Primary Examiner, AU 3765